



Department of Energy

Richland Operations Office
P.O. Box 550
Richland, Washington 99352

99-RU-0268

Mr. M. J. Lawrence, Executive Vice-President
General Manager TWRS Project
BNFL Inc.
3000 George Washington Way
Richland, Washington 99352

Dear Mr. Lawrence:

U.S. DEPARTMENT OF ENERGY, REGULATORY UNIT (RU) RESPONSE TO
AUTHORIZATION BASIS AMENDMENT REQUEST FOR REVISION OF THE EMPLOYEE
CONCERNS PROGRAM (BNFL-5193-ECP-01, REVISION 0)

Enclosed please find review comments on the April 2, 1999, BNFL Inc., Authorization Basis Amendment Request (ABAR) for revision of BNFL Inc.'s Employee Concerns Program (ECP) (letter reference number 002251). The RU found that BNFL Inc.'s ABAR evaluation was not documented in sufficient detail such that a knowledgeable individual reviewing the evaluation could identify the technical issues considered during the evaluation and bases for the determinations (reference RL/REG-97-13, Rev.5, para 3.5.b).

The RU also continues to find, as stated in RU letter 99-RU-0167, dated February 17, 1999, that BNFL Inc.'s response to the ECP inspection report, IR-98-001, was acceptable and that the corrective action commitments contained in that response, if properly implemented, should be sufficient to address the inspection finding. However, the RU requires additional information addressing the enclosed review comments in order to approve the requested amendment.

Nothing in this letter should be construed as changing the Contract (DE-AC06-96RL13308). If you have any questions please contact me or Neal K. Hunemuller of my staff at (509) 376-6727.

Sincerely,

D. Clark Gibbs, Regulatory Official
Office of Radiological, Nuclear and
Process Safety Regulation

RNP:NKH

Enclosure

cc w/encl:
D. W. Edwards, BNFL

Review Comments

1. Commitment 99-CMS-006, "ECP training will be mandatory for all BNFL TWRS-P project positions," was adequately incorporated in the proposed revision of BNFL-5193-ECP-01. Section 2, "Policy," states that "all employees will receive orientation on the ECP." Section 5.2, "TWRS-Privatization Organization Managers," states that, "Managers are also responsible for ensuring that each employee under their direction receives ECP training." Upon RU approval this is sufficient to close Commitment 99-CMS-006.
2. Commitment 99-CMS-007, "Qualification standards for the ECP officer, coordinator, and staff will be incorporated in BNFL TWRS-P project documents," was adequately incorporated in the requested revision of BNFL 5193-ECP-01. Section 5.1, "ECP Staff," states that, "The ECP Officer and Coordinator(s) will be nominated by senior management and will be chosen in accordance with the qualification standards described in K21C001 (Ref. 5)." Upon RU approval this is sufficient to close Commitment 99-CMS-007 provided that the ECP Officer and Coordinator(s) comprise the entire ECP staff.
3. Commitment 99-CMS-010, "Senior BNFL project management will encourage and endorse the ECP during ECP training," was not adequately incorporated in the requested revision of BNFL-5193-ECP-01. Although Section 5.1, "ECP Staff" states that one of the actions for which the ECP Officer is responsible is "developing effective program training that provides senior management endorsement of the ECP," this is not sufficient to close Commitment 99-CMS-010. Commitment 99-CMS-010 will remain open until appropriate language incorporating this commitment is added to BNFL-5193-ECP-01.
4. The "Authorization Basis Amendment Request," the "Safety Evaluation Worksheet," and the mark-up of Appendix D to BNFL-5193-ECP-01, Rev. 0, all refer to Code of Practice K15C010, which is apparently the detailed implementing procedure for conducting employee concern investigations. However, K15C010 is not referenced anywhere in the requested revision of BNFL-5193-ECP-01. It would seem that this Code of Practice should be referred to under Section 1, "Introduction," Section 4.3, "Investigation and Corrective Action," and included under Section 6, "References." BNFL should explain or correct this apparent discrepancy.
5. In Section A of the amendment request, BNFL indicates the proposed change is "a complete revision." The BNFL ABAR document does not identify specific changes or provide a specific evaluation of each change made to the ECP in Section E of the request. For example, BNFL proposes eliminating its commitment to quarterly reporting. The request does not identify this specific change nor does it provide an evaluation of the significance of this change. In a document labeled "Appendix 1: Authorization Basis Change Notice," BNFL does identify the relocation of the reporting requirement and that the frequency was changed, but fails to provide an evaluation or relevant reason for the change.
6. Section B of the ABAR is a generalization of the "reason" for the change, i.e., to relocate detailed implementing procedural instructions to Codes of Practice. However, it appears that BNFL also changed authorization basis information and commitments. For example, Section 1 of the proposed revision to the ECP cites DOE O 442.1, *Department of Energy Employee Concerns Program*, as its basis whereas Revision 0 cited RLID 5480.29, *RL Employee Concern Program*. The reasons for, and effects of, these changes were not explained. One effect would seem to be that if DOE O 442.1 is to be the basis of Revision 1 of the ECP, then the contractor requirements document provisions in Attachment 1 to DOE O 442.1 should be reflected in Revision 1.

7. Section C of the ABAR did not provide the RU with an understanding of how implementation of the proposed changes could affect BNFL scheduled activities. As such, the RU cannot identify the basis for BNFL Inc.'s determination of the proposed approval schedule.
8. One of the change drivers for this revision is commitments made by BNFL in response to an RU inspection (BNFL Inc. letter reference number 001348, January 29, 1999). It would seem that the ABAR would include complete documentation of the changes made due to these commitments showing how they were reflected in the document.
9. The proposed revision to the ECP cites 10 CFR 708 as a reference in Section 6, "References," but it did not contain any other connection or commitment to 10 CFR 708. Compliance with 10 CFR 708 would seem to be a significant element of the proposed revised program given the applicability of Part 708 to BNFL Inc. activities (64 Federal Register 12863, March 15, 1999). For example, if discrimination occurs and a nuclear/radiological safety-significant issue is involved, the event is potentially reportable as a noncompliance with 10 CFR 708 and the procedures of 10 CFR 820 would apply. The ECP does not describe or reference responsibilities or interfaces with regard to complying with 10 CFR 708.